

BEFORE THE  
BOARD OF REGISTERED NURSING  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

MICHELE ESTHER MOLLEN  
P.O. Box 34416  
Los Angeles, CA 90034

Registered Nurse License No. 463956

Respondent.

Case No. 2008-5

OAH No. L2007090664

**DECISION AFTER NON-ADOPTION**

The attached Decision After Non-Adoption is hereby adopted by the Board of Registered Nursing as its Decision in the above-entitled matter.

This Decision shall become effective on July 30, 2008.

IT IS SO ORDERED this 30<sup>th</sup> day of June 2008.



President  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California

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DECISION AFTER NON-ADOPT

Administrative Law Judge N. Gregory Taylor, Office of Administrative Hearings, State of California, heard this matter in Los Angeles, California on November 15, 2007. Christina Thomas, Deputy Attorney General, represented Ruth Ann Terry, M.P.H., R.N. (Complainant), Executive Officer of the Board of Registered Nursing (Board), Department of Consumer Affairs, State of California. Michele Esther Mollen (Respondent) represented herself, and was present throughout the hearing. Oral and documentary evidence was received, and the matter was argued. The record was held open to permit Respondent to obtain and file a certified court document. On November 26, 2007, Respondent filed the certified court document. It is marked as Respondent's Exhibit C and, without objection, received in evidence.

The case was submitted for decision on December 18, 2007. The Administrative Law Judge issued his proposed decision on January 14, 2008. After due consideration, the Board issued an order not adopting that proposed decision on February 26, 2008. The Board ordered the transcript pursuant to Government Code section 11517(c)(2)(E), which was received on March 28, 2008, and invited briefing from the parties on the issue of whether the penalty should be increased. Neither party filed further briefs in this matter. The time for briefing having expired, the Board considered this matter on June 12, 2008. The entire record, including the transcript of the hearing, having been read and considered, pursuant to Government Code section 11517(c)(2)(E), the Board hereby makes the following decision and order:

## FACTUAL FINDINGS

1. Complainant filed the Accusation in this proceeding in her official capacity.
2. Methamphetamine is a Schedule II controlled substance as designated by Health and Safety Code section 11055, subdivision (d) (2), and is categorized as a dangerous drug pursuant to Business and Professions Code section 4022.
3. Respondent, at all times pertinent to this proceeding, was and is licensed by the Board as a Registered Nurse holding license number RN#463956. Respondent's license was originally issued on March 31, 1991. It will expire on December 31, 2008, unless renewed. Respondent is also licensed in the states of Arizona, New York, and Pennsylvania.
4. Respondent has had no other administrative actions filed against her nursing license.
5. Four years ago, Respondent fell in love with a married man. Respondent spent the next two years with him and his friends. Respondent became addicted to methamphetamines. Because of interference from the man's wife, Respondent lost her jobs and became homeless with the rest of the group with whom she was associating. During this time Respondent committed a series of criminal offenses while using methamphetamines.
6. After two years of this life style, Respondent enrolled in a recovery program. On March 10, 2007, Respondent graduated from that recovery program. Respondent's recovery was accomplished through total abstinence from drugs and alcohol. Respondent has not been on any drugs for the past two years.
7. Upon starting the recovery program, Respondent abandoned her former friends and moved in with her parents. Respondent provides home care for her elderly mother, keeping her mother out of a nursing home. At the present time, Respondent's 77 year old father supports Respondent and his wife through working seven days a week.
8. Respondent's father testified that, during the time that Respondent has lived with him and his wife, he had not observed his daughter using drugs or alcohol.
9. The following paragraphs describe the crimes committed by Respondent during the time that she was using methamphetamines. It should be noted that, in recognition of Respondent's completion of the recovery program and not using drugs, the courts in several instances reduced the charges filed against Respondent. At the present time, Respondent has satisfied the conditions with regard to incarceration, probation and accomplishment of community service in all but one of the cases filed against her. In one case, Respondent remains on probation until September 2008.

Respondent has had no money to pay the monetary amounts assessed against her. These amounts have been assigned to a civil collector.

10. In the California Superior Court, County of Los Angeles, in Airport Courthouse, Case No. 5WL01228, Respondent was convicted of the following crimes:

a. Count 2 – Violation of Health and Safety Code section 11377, subdivision (a), possession of a controlled substance, a misdemeanor. On May 18, 2005, Respondent pled guilty to the charge. The court deferred entry of judgment for eighteen months and placed Respondent on probation for drug abuse counseling. On November 17, 2006, the court terminated the deferred entry of judgment, revoked Respondent's probation and ordered Respondent to pay a fine to the court. Respondent was unable to pay the monetary amounts assessed by the court. On September 10, 2007, the court terminated the proceedings.

b. Count 3 – Violation of Penal Code section 602, subdivision (k), trespass – lands under cultivation, a misdemeanor. On August 15, 2005, Respondent pled nolo contendere to the charge. On September 10, 2007, the court placed Respondent on summary probation for a period of twelve months upon certain terms and conditions including paying a restitution fine of \$100.00 and staying away from Albertson's. Respondent remains on probation until September 2008.

11. The circumstances concerning Respondent's conviction referred to in Paragraph 10 above are as follows: Respondent was arrested for taking items from Albertson's Market without paying for them. At the time of her arrest, she was also found to be carrying methamphetamines.

12. On July 13, 2005, in the California Superior Court, County of Los Angeles, in Airport Courthouse Case No. 5CR10138, Respondent, upon a plea of nolo contendere, was convicted of violating Penal Code section 487, subdivision (a), grand theft, property over \$400, a misdemeanor. The court placed Respondent on summary probation for a period of twenty-four months on certain terms and conditions including serving 25 days in the county jail, and paying fines and fees in the total amount of \$316.00. Respondent failed to make the monetary payments to the court. On July 13, 2006, the unpaid fines and fees were forwarded to a collection agency.

13. The circumstances concerning Respondent's July 13<sup>th</sup> conviction were that she was arrested for taking clothing from Macy's Department Store without paying for the items.

14. On December 20, 2006, in the California Superior Court, County of Los Angeles, in Airport Courthouse Case No. 5WL12248, Respondent, upon her plea of nolo contendere, was convicted of violating Penal Code section 602, subdivision (m), entering occupied property without consent, a misdemeanor. The court placed Respondent on

summary probation for a period of twelve months. During the time this case was pending, Respondent was in a rehabilitation program. The charges were to be reduced if Respondent was successful in that program. Apparently this occurred as Respondent was originally charged with a violation of Penal Code section 487, subdivision (a), grand theft: property over \$400.

15. The circumstances concerning Respondent's December 20, 2006, conviction were that she was arrested for taking merchandise and clothing from a Target Department Store.

16. At the time of the hearing in this matter, Respondent disclosed she had two additional criminal convictions. They are described in the following paragraphs.

17. On May 18, 2005, in the California Superior Court, County of Los Angeles, in Airport Courthouse Case No. 5WL00873, Respondent, upon her plea of nolo contendere was convicted of violating Vehicle Code sections 12500, subdivision (a), unlicensed driver, an infraction and 16028, subdivision (a), an infraction. The court fined Respondent \$421.00 or in the alternative allowed satisfaction of the conviction by her performing 25 hours of community service. Since only infractions were involved in this proceeding, the conviction was not reportable to the Board.

18. On September 21, 2005, in the California Superior Court, County of Los Angeles in Airport Courthouse Case No. 5WL11471, Respondent, upon her plea of nolo contendere, was convicted of violating Penal Code section 415, disturbing the peace, a misdemeanor. The court placed Respondent on summary probation for a period of twenty-four months, under certain terms and conditions including, serving 36 days in the county jail and payment of \$280.00 in fines and assessments. The court also ordered Respondent to successfully complete a six month counseling program.

19. Respondent has not paid the monetary amounts ordered by the courts in her criminal proceedings because of her lack of funds. These amounts have been turned over for civil collection.

20. About two years ago, Respondent began attending the Hare Krishna Temple. She converted to that faith, was initiated as a member, and given the name Mama Ta Dasi.

21. Pursuant to Business and Professions Code section 125.3, Complainant has submitted a certification of Complainant's costs for the investigation and enforcement of the case in the amount of \$4,128.50. The costs are reasonable.

#### LEGAL CONCLUSIONS

1. Pursuant to the provisions of Business and Professions Code section 2750, the

Board may discipline any licensee for any reason provided in Article 3 of the Nursing Practice Act.

2. The crimes of which Respondent was convicted are substantially related to the qualifications, functions, or duties of a registered nurse.

3. Respondent is subject to disciplinary action under Business and Professions Code sections 490 and 2761, subdivision (f), on the grounds of unprofessional conduct, as defined in California Code of Regulations, title 16, section 1444 in that Respondent was convicted of crimes substantially related to the qualifications, functions, or duties of a registered nurse as set forth in Paragraphs 9 through 19 of the Factual Findings.

4. Respondent is subject to disciplinary action under Business and Professions Code section 2761, subdivision (a) on the grounds of unprofessional conduct as defined in Business and Professions Code section 2762, subdivision (c), in that Respondent was convicted of a criminal offense involving methamphetamine, a controlled substance and dangerous drug, as more fully set forth in Paragraph 10 (a) of the Factual Findings.

5. Respondent is subject to disciplinary action under Business and Professions Code section 2761, subdivision (a), in that Respondent possessed the controlled substance and/or dangerous drug, methamphetamine, as more fully set forth in Paragraph 10 of the Factual Findings.

6. Respondent is subject to disciplinary action under Business and Professions Code section 2761, subdivision (a), in that Respondent committed acts of unprofessional conduct as more fully described in Paragraphs 10 through 19 of the Factual Findings.

7. The Board's certified cost bill in the amount of \$4128.50 is reasonable.

8. Respondent has completed a drug recovery program and has been off drugs for the past two years. She has completely changed her way of life and is living with her parents and caring for her elderly mother. Respondent has abandoned her former friends and has established a new life for herself. Respondent has demonstrated sufficient rehabilitation for Respondent to be placed on probationary licensure to monitor her continued progress and insure for the protection of the public. However, she has only been in recovery for approximately three years, which is still early in terms of a recovery program. In addition, Respondent has provided no other evidence of involvement in either a recovery program, or a system of support. Accordingly, the Board believes that a longer period of probation and participation in a recovery program are required for adequate protection of the public.

#### ORDER

IT IS HEREBY ORDERED that Registered Nurse License Number 463956 issued to

Respondent Michele Esther Mollen is revoked. However, the revocation is stayed and Respondent is placed on probation for five (5) years on the following conditions.

SEVERABILITY CLAUSE – Each condition of probation contained herein is a separate and distinct condition. If any condition of this Order, or any application thereof, is declared unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other applications thereof, shall not be affected. Each condition of this Order shall separately be valid and enforceable to the fullest extent permitted by law.

(1) OBEY ALL LAWS - Respondent shall obey all federal, state and local laws. A full and detailed account of any and all violations of law shall be reported by the respondent to the Board in writing within seventy-two (72) hours of occurrence. To permit monitoring of compliance with this condition, Respondent shall submit completed fingerprint forms and fingerprint fees within 45 days of the effective date of the decision, unless previously submitted as part of the licensure application process.

CRIMINAL COURT ORDERS: If Respondent is under criminal court orders, including probation or parole, and the order is violated, this shall be deemed a violation of these probation conditions, and may result in the filing of an accusation and/or petition to revoke probation.

(2) COMPLY WITH THE BOARD'S PROBATION PROGRAM - Respondent shall fully comply with the conditions of the Probation Program established by the Board and cooperate with representatives of the Board in its monitoring and investigation of the respondent's compliance with the Board's Probation Program. Respondent shall inform the Board in writing within no more than 15 days of any address change and shall at all times maintain an active, current license status with the Board, including during any period of suspension.

Upon successful completion of probation, Respondent's license shall be fully restored.

(3) REPORT IN PERSON - Respondent, during the period of probation, shall appear in person at interviews/ meetings as directed by the Board or its designated representatives.

(4) RESIDENCY, PRACTICE, OR LICENSURE OUTSIDE OF STATE - Periods of residency or practice as a registered nurse outside of California shall not apply toward a reduction of this probation time period. Respondent's probation is tolled, if and when she resides outside of California. The Respondent must provide written notice to the Board within 15 days of any change of residency or practice outside the state, and within 30 days prior to re-establishing residency or returning to practice in this state.

Respondent shall provide a list of all states and territories where she has ever been licensed as a registered nurse, vocational nurse, or practical nurse. Respondent shall further provide information regarding the status of each license and any changes in such

license status during the term of probation. Respondent shall inform the Board if she applies for or obtains a new nursing license during the term of probation.

(5) SUBMIT WRITTEN REPORTS - Respondent, during the period of probation, shall submit or cause to be submitted such written reports/declarations and verification of actions under penalty of perjury, as required by the Board. These reports/declarations shall contain statements relative to Respondent's compliance with all the conditions of the Board's Probation Program. Respondent shall immediately execute all release of information forms as may be required by the Board or its representatives.

Respondent shall provide a copy of this decision to the nursing regulatory agency in every state and territory in which she has a registered nurse license.

(6) FUNCTION AS A REGISTERED NURSE - Respondent, during the period of probation, shall engage in the practice of registered nursing in California for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

For purposes of compliance with the section, "engage in the practice of registered nursing" may include, when approved by the Board, volunteer work as a registered nurse, or work in any non-direct patient care position that requires licensure as a registered nurse.

The Board may require that advanced practice nurses engage in advanced practice nursing for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

If Respondent has not complied with this condition during the probationary term, and the respondent has presented sufficient documentation of her good faith efforts to comply with this condition, and if no other conditions have been violated, the Board, in its discretion, may grant an extension of Respondent's probation period up to one year without further hearing in order to comply with this condition. During the one year extension, all original conditions of probation shall apply.

(7) EMPLOYMENT APPROVAL AND REPORTING REQUIREMENTS -

Respondent shall obtain prior approval from the Board before commencing or continuing any employment, paid or voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all performance evaluations and other employment related reports as a registered nurse upon request of the Board.

Respondent shall provide a copy of this decision to her employer and immediate supervisors prior to commencement of any nursing or other health care related employment.

In addition to the above, Respondent shall notify the Board in writing within seventy-two



(72) hours after she obtains any nursing or other health care related employment. Respondent shall notify the Board in writing within seventy-two (72) hours after she is terminated or separated, regardless of cause, from any nursing, or other health care related employment with a full explanation of the circumstances surrounding the termination or separation.

(8) SUPERVISION - Respondent shall obtain prior approval from the Board regarding Respondent's level of supervision and/or collaboration before commencing or continuing any employment as a registered nurse, or education and training that includes patient care.

Respondent shall practice only under the direct supervision of a registered nurse in good standing (no current discipline) with the Board of Registered Nursing, unless alternative methods of supervision and/or collaboration (e.g., with an advanced practice nurse or physician) are approved.

Respondent's level of supervision and/or collaboration may include, but is not limited to the following:

- (a) Maximum - The individual providing supervision and/or collaboration is present in the patient care area or in any other work setting at all times.
- (b) Moderate - The individual providing supervision and/or collaboration is in the patient care unit or in any other work setting at least half the hours Respondent works.
- (c) Minimum - The individual providing supervision and/or collaboration has person-to-person communication with Respondent at least twice during each shift worked.
- (d) Home Health Care - If Respondent is approved to work in the home health care setting, the individual providing supervision and/or collaboration shall have person-to-person communication with respondent as required by the Board each work day. Respondent shall maintain telephone or other telecommunication contact with the individual providing supervision and/or collaboration as required by the Board during each work day. The individual providing supervision and/or collaboration shall conduct, as required by the Board, periodic, on-site visits to patients' homes visited by Respondent with or without Respondent present.

(9) EMPLOYMENT LIMITATIONS - Respondent shall not work for a nurse's registry, in any private duty position as a registered nurse, a temporary nurse placement agency, a traveling nurse, or for an in-house nursing pool.

Respondent shall not work for a licensed home health agency as a visiting nurse unless the registered nursing supervision and other protections for home visits have been approved by the Board. Respondent shall not work in any other registered nursing

occupation where home visits are required.

Respondent shall not work in any health care setting as a supervisor of registered nurses. The Board may additionally restrict Respondent from supervising licensed vocational nurses and/or unlicensed assistive personnel on a case-by-case basis.

Respondent shall not work as a faculty member in an approved school of nursing or as an instructor in a Board approved continuing education program.

Respondent shall work only on a regularly assigned, identified and predetermined worksite(s) and shall not work in a float capacity.

If Respondent is working or intends to work in excess of 40 hours per week, the Board may request documentation to determine whether there should be restrictions on the hours of work.

(10) COMPLETE A NURSING COURSE(S) - Respondent, at her own expense, shall enroll and successfully complete a course(s) relevant to the practice of registered nursing no later than six months prior to the end of her probationary term.

Respondent shall obtain prior approval from the Board before enrolling in the course(s). Respondent shall submit to the Board the original transcripts or certificates of completion for the above required course(s). The Board shall return the original documents to respondent after photocopying them for its records.

(11) COST RECOVERY - Respondent shall pay to the Board costs associated with its investigation and enforcement pursuant to Business and Professions Code Section 125.3 in the amount of \$4,128.50. Respondent shall be permitted to pay these costs in a payment plan approved by the Board, with payments to be completed no later than three months prior to the end of the probation term.

If Respondent has not complied with this condition during the probationary term, and respondent has presented sufficient documentation of her good faith efforts to comply with this condition, and if no other conditions have been violated, the Board, in its discretion, may grant an extension of Respondent's probation period up to one year without further hearing in order to comply with this condition. During the one year extension, all original conditions of probation will apply.

(12) VIOLATION OF PROBATION - If Respondent violates the conditions of her probation, the Board after giving Respondent notice and an opportunity to be heard, may set aside the stay order and impose the stayed discipline (revocation/suspension) of the respondent's license.

If during the period of probation, an accusation or petition to revoke probation has been

filed against Respondent's license or the Attorney General's Office has been requested to prepare an accusation or petition to revoke probation against the Respondent's license, the probationary period shall automatically be extended and shall not expire until the accusation or petition has been acted upon by the Board.

(13) LICENSE SURRENDER - During Respondent's term of probation, if she ceases practicing due to retirement, health reasons or is otherwise unable to satisfy the conditions of probation, Respondent may surrender her license to the Board. The Board reserves the right to evaluate Respondent's request and to exercise its discretion whether to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances, without further hearing. Upon formal acceptance of the tendered license and wall certificate, Respondent will no longer be subject to the conditions of probation.

Surrender of Respondent's license shall be considered a disciplinary action and shall become a part of respondent's license history with the Board. A registered nurse whose license has been surrendered may petition the Board for reinstatement no sooner than the following minimum periods from the effective date of the disciplinary decision:

Two years for reinstatement of a license that was surrendered for any reason other than a mental or physical illness; or One year for a license surrendered for a mental or physical illness.

(14) PHYSICAL EXAMINATION - Within 45 days of the effective date of this decision, Respondent, at her expense, shall have a licensed physician, nurse practitioner, or physician assistant, who is approved by the Board before the assessment is performed, submit an assessment of Respondent's physical condition and capability to perform the duties of a registered nurse. Such an assessment shall be submitted in a format acceptable to the Board. If medically determined, a recommended treatment program will be instituted and followed by Respondent with the physician, nurse practitioner, or physician assistant providing written reports to the Board on forms provided by the Board.

If Respondent is determined to be unable to practice safely as a registered nurse, the licensed physician, nurse practitioner, or physician assistant making this determination shall immediately notify the Board and respondent by telephone, and the Board shall request that the Attorney General's office prepare an accusation or petition to revoke probation. Respondent shall immediately cease practice and shall not resume practice until notified by the Board. During this period of suspension, Respondent shall not engage in any practice for which a license issued by the Board is required until the Board has notified respondent that a medical determination permits Respondent to resume practice. This period of suspension will not apply to the reduction of this probationary time period.

If Respondent fails to have the above assessment submitted to the Board within the 45-day requirement, Respondent shall immediately cease practice and shall not resume practice until notified by the Board. This period of suspension will not apply to the reduction of this probationary time period. The Board may waive or postpone this suspension only if significant, documented evidence of mitigation is provided. Such evidence must establish good faith efforts by the respondent to obtain the assessment, and a specific date for compliance must be provided. Only one such waiver or extension may be permitted.

**(15) PARTICIPATE IN TREATMENT/REHABILITATION PROGRAM FOR CHEMICAL DEPENDENCE** - Respondent, at her expense, shall successfully complete during the probationary period or shall have successfully completed prior to commencement of probation a Board-approved treatment/rehabilitation program of at least six months duration. As required, reports shall be submitted by the program on forms provided by the Board. If Respondent has not completed a Board-approved treatment/rehabilitation program prior to commencement of probation, Respondent, within 45 days from the effective date of the decision, shall be enrolled in a program. If a program is not successfully completed within the first nine months of probation, the Board shall consider Respondent in violation of probation.

Based on Board recommendation, each week Respondent shall be required to attend at least one, but no more than five 12-step recovery meetings or equivalent (e.g., Narcotics Anonymous, Alcoholics Anonymous, etc.) and a nurse support group as approved and directed by the Board. If a nurse support group is not available, an additional 12-step meeting or equivalent shall be added. Respondent shall submit dated and signed documentation confirming such attendance to the Board during the entire period of probation. Respondent shall continue with the recovery plan recommended by the treatment/rehabilitation program or a licensed mental health examiner and/or other ongoing recovery groups.

**(16) ABSTAIN FROM USE OF PSYCHOTROPIC (MOOD-ALTERING) DRUGS** - Respondent shall completely abstain from the possession, injection or consumption by any route of all psychotropic (mood altering) drugs, including alcohol, except when the same are ordered by a health care professional legally authorized to do so as part of documented medical treatment. Respondent shall have sent to the Board, in writing and within fourteen (14) days, by the prescribing health professional, a report identifying the medication, dosage, the date the medication was prescribed, Respondent's prognosis, the date the medication will no longer be required, and the effect on the recovery plan, if appropriate.

Respondent shall identify for the Board a single physician, nurse practitioner or physician assistant who shall be aware of respondent's history of substance abuse and will coordinate and monitor any prescriptions for Respondent for dangerous drugs, controlled substances or mood-altering drugs. The coordinating physician, nurse

practitioner, or physician assistant shall report to the Board on a quarterly basis respondent's compliance with this condition. If any substances considered addictive have been prescribed, the report shall identify a program for the time limited use of any such substances.

The Board may require the single coordinating physician, nurse practitioner, or physician assistant to be a specialist in addictive medicine, or to consult with a specialist in addictive medicine.

(17) SUBMIT TO TESTS AND SAMPLES - Respondent, at her expense, shall participate in a random, biological fluid testing or a drug screening program which the Board approves. The length of time and frequency will be subject to approval by the Board. The Respondent is responsible for keeping the Board informed of Respondent's current telephone number at all times. Respondent shall also ensure that messages may be left at the telephone number when she is not available and ensure that reports are submitted directly by the testing agency to the Board, as directed. Any confirmed positive finding shall be reported immediately to the Board by the program and Respondent shall be considered in violation of probation.

In addition, Respondent, at any time during the period of probation, shall fully cooperate with the Board or any of its representatives, and shall, when requested, submit to such tests and samples as the Board or its representatives may require for the detection of alcohol, narcotics, hypnotics, dangerous drugs, or other controlled substances.

If Respondent has a positive drug screen for any substance not legally authorized and not reported to the coordinating physician, nurse practitioner, or physician assistant, and the Board files a petition to revoke probation or an accusation, the Board may suspend Respondent from practice pending the final decision on the petition to revoke probation or the accusation. This period of suspension will not apply to the reduction of this probationary time period.

If Respondent fails to participate in a random, biological fluid testing or drug screening program within the specified time frame, the Respondent shall immediately cease practice and shall not resume practice until notified by the Board. After taking into account documented evidence of mitigation, if the Board files a petition to revoke probation or an accusation, the Board may suspend Respondent from practice pending the final decision on the petition to revoke probation or the accusation. This period of suspension will not apply to the reduction of this probationary time period.

(18) MENTAL HEALTH EXAMINATION - Respondent shall, within 45 days of the effective date of this decision, have a mental health examination including psychological testing as appropriate to determine her capability to perform the duties of a registered nurse. The examination will be performed by a psychiatrist, psychologist or other licensed mental health practitioner approved by the Board. The examining mental health

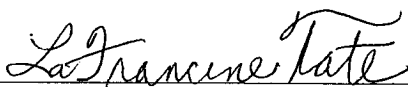
practitioner will submit a written report of that assessment and recommendations to the Board. All costs are the responsibility of the Respondent. Recommendations for treatment, therapy or counseling made as a result of the mental health examination will be instituted and followed by the Respondent.

If Respondent is determined to be unable to practice safely as a registered nurse, the licensed mental health care practitioner making this determination shall immediately notify the Board and respondent by telephone, and the Board shall request that the Attorney General's office prepare an accusation or petition to revoke probation. Respondent shall immediately cease practice and may not resume practice until notified by the Board. During this period of suspension, Respondent shall not engage in any practice for which a license issued by the Board is required, until the Board has notified Respondent that a mental health determination permits Respondent to resume practice. This period of suspension will not apply to the reduction of this probationary time period.

If Respondent fails to have the above assessment submitted to the Board within the 45-day requirement, Respondent shall immediately cease practice and shall not resume practice until notified by the Board. This period of suspension will not apply to the reduction of this probationary time period. The Board may waive or postpone this suspension only if significant, documented evidence of mitigation is provided. Such evidence must establish good faith efforts by the respondent to obtain the assessment, and a specific date for compliance must be provided. Only one such waiver or extension may be permitted.

(19) THERAPY OR COUNSELING PROGRAM - Respondent, at her expense, shall participate in an on-going counseling program until such time as the Board releases her from this requirement and only upon the recommendation of the counselor. Written progress reports from the counselor will be required at various intervals.

DATED: June 30, 2008.

  
\_\_\_\_\_  
LAFRANCINE TATE  
President  
Board of Registered Nursing

1 EDMUND G. BROWN JR., Attorney General  
of the State of California  
2 MARC D. GREENBAUM  
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7 Attorneys for Complainant

8 **BEFORE THE**  
9 **BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. *2008-5*

12 MICHELE ESTHER MOLLEN  
465 N. Roxbury Drive, Suite 1012  
13 Beverly Hills, CA 90210  
14 Registered Nurse License No. 463956

**A C C U S A T I O N**

15 Respondent.

16 Complainant alleges:

17 **PARTIES**

18 1. Ruth Ann Terry, M.P.H, R.N (Complainant) brings this Accusation solely  
19 in her official capacity as the Executive Officer of the Board of Registered Nursing, Department  
20 of Consumer Affairs (Board).

21 2. On or about March 31, 1991, the Board issued Registered Nurse License  
22 No. 463956 to Michele Esther Mollen (Respondent). The Registered Nurse License was in full  
23 force and effect at all times relevant to the charges brought herein and will expire on  
24 December 31, 2008, unless renewed.

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1           “(a) Obtain or possess in violation of law, or prescribe, or except as directed by a  
2 licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish  
3 or administer to another, any controlled substance as defined in Division 10 (commencing with  
4 Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as  
5 defined in Section 4022.

6           . . . .

7           “(c) Be convicted of a criminal offense involving the prescription, consumption,  
8 or self-administration of any of the substances described in subdivisions (a) and (b) of this  
9 section, or the possession of, or falsification of a record pertaining to, the substances described in  
10 subdivision (a) of this section, in which event the record of the conviction is conclusive evidence  
11 thereof. . . .”

12           8.       Section 490 states:

13           “A board may suspend or revoke a license on the ground that the licensee has  
14 been convicted of a crime, if the crime is substantially related to the qualifications, functions, or  
15 duties of the business or profession for which the license was issued. A conviction within the  
16 meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo  
17 contendere. Any action which a board is permitted to take following the establishment of a  
18 conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has  
19 been affirmed on appeal, or when an order granting probation is made suspending the imposition  
20 of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the  
21 Penal Code.”

22           9.       California Code of Regulations, title 16, section 1444, states:

23           “A conviction or act shall be considered to be substantially related to the  
24 qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the  
25 present or potential unfitness of a registered nurse to practice in a manner consistent with the

26       ///

27       ///

28       ///

1 public health, safety, or welfare. Such convictions or acts shall include but not be limited to the  
2 following:

3 . . . .  
4 “(c) Theft, dishonesty, fraud, or deceit. . . .”

5 10. Section 118, subdivision (b), provides that the suspension / expiration /  
6 surrender / cancellation of a license shall not deprive the Board of jurisdiction to proceed with a  
7 disciplinary action during the period within which the license may be renewed, restored, reissued  
8 or reinstated.

9 11. Section 125.3 provides, in pertinent part, that the Board may request the  
10 administrative law judge to direct a licentiate found to have committed a violation or violations  
11 of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
12 enforcement of the case.

13 CONTROLLED SUBSTANCE DANGEROUS DRUG

14 12. Methamphetamine is a Schedule II controlled substance as designated by  
15 Health and Safety Code section 11055, subdivision (d)(2), and is categorized as a dangerous drug  
16 pursuant to Business and Professions Code section 4022.

17 FIRST CAUSE FOR DISCIPLINE

18 (Convictions of Substantially Related Crimes)

19 13. Respondent is subject to disciplinary action under Sections 490 and 2761,  
20 subdivision (f), on the grounds of unprofessional conduct, as defined in California Code of  
21 Regulations, title 16, section 1444, in that on or about September 13, 2005, on or about  
22 November 17, 2006, and on or about December 20, 2006, Respondent was convicted of crimes  
23 substantially related to the qualifications, functions, or duties of a registered nurse, as follows:

- 24 a. Methamphetamine Possession, Misdemeanor  
25 Trespass With Intent to Cause Injury, Misdemeanor

26 On or about November 17, 2006, in a criminal proceeding entitled *The People of*  
27 *the State of California v. Michele Esther Mollen* in Los Angeles County Superior Court, Airport  
28 Courthouse, Case No. 5WL01228, Respondent was convicted on a plea of *nolo contendere* for

1 violating Health and Safety Code section 11377(a) (possession of controlled substance, to wit,  
2 methamphetamine), a misdemeanor, and Penal Code section 602(k) (trespass with intent to cause  
3 injury), a misdemeanor.

4           The circumstances surrounding the conviction are that on or about May 1, 2005,  
5 Los Angeles Police Department (LAPD) officers responded to a subject- in-custody call from  
6 Albertsons Market loss prevention officers. Respondent was observed removing items from  
7 store shelves, placing the items in her backpack, going through the check out stand and paying  
8 for a soft drink, baguette bread and a package of licorice candy. Respondent left the store  
9 making to no attempt to pay for the items concealed in her backpack; the items had an  
10 approximate value of \$14.30. Respondent was placed under citizen's arrest by the loss  
11 prevention officers. Subsequent to booking and during an inventory of Respondent's person,  
12 LAPD officers found, identified, and booked into evidence a green plastic box containing  
13 methamphetamine.

14           b.     Grand Theft, Misdemeanor

15           On or about July 13, 2005, in a criminal proceeding entitled *The People of the*  
16 *State of California v. Michele Esther Mollen* in Los Angeles County Superior Court, Central  
17 Arraignment Courthouse, Case No. 5CR10138, Respondent was convicted on a plea of *nolo*  
18 *contendere* for violating Penal Code section 487(a) (grand theft), a misdemeanor.

19           The circumstances surrounding the conviction are that on or about June 27, 2005,  
20 LAPD officers, Wilshire area, responded to a subject-in-custody for shoplifting from Macy's loss  
21 prevention officers. Respondent acquired, removed electronic sensors, and concealed on various  
22 parts of her person eight (8) pieces of clothing valued at \$1,244: top, \$118; shirt, \$66; skirt,  
23 \$198; dress, \$288; shirt, \$46.; shirt, \$194; top, \$146; and top, \$168. Respondent was confronted  
24 outside of Macy's after she left the store with the concealed merchandise. Respondent was  
25 placed under citizen's arrest by the loss prevention officers and booked by LAPD officers.

26           c.     Enter/Occupy Property Without Consent, Misdemeanor

27           On or about December 20, 2006, in a criminal proceeding entitled *The People of*  
28 *the State of California v. Michele Esther Mollen* in Los Angeles County Superior Court, Airport

1 Courthouse, Case No. 5WL12248, Respondent was convicted on a plea of *nolo contendere* for  
2 violating Penal Code section 602(m) (enter/occupy property without consent), a misdemeanor.

3 The circumstances surrounding the conviction are that on or about May 26, 2005,  
4 Culver City Police Department officers responded to a subject-in-custody call from Target loss  
5 prevention officers. Respondent was observed removing ten items, valued at \$487, from store  
6 shelves, conceal the items on her person, and exit the store without paying for the store items  
7 taken. Respondent was placed under citizen's arrest by the loss prevention officers. Subsequent  
8 to booking and during an inventory of Respondent's person, Culver City Police Department  
9 officers found, identified, and booked into evidence a 3" glass tube/pipe to smoke rock cocaine  
10 or methamphetamine, drug paraphernalia.

#### 11 SECOND CAUSE FOR DISCIPLINE

12 (Conviction of Drug Related Crime)

13 14. Respondent is subject to disciplinary action under Section 2761,  
14 subdivision (a), on the grounds of unprofessional conduct as defined in Section 2762,  
15 subdivision (c), in that on or about November 17, 2006, Respondent was convicted of a criminal  
16 offense involving methamphetamine, a controlled substance and dangerous drug, as more fully  
17 set forth above in paragraphs 13 (a).

#### 18 THIRD CAUSE FOR DISCIPLINE

19 (Possession of Controlled Substance)

20 15. Respondent is subject to disciplinary action under Sections 2761,  
21 subdivision (a), on the grounds of unprofessional conduct as defined in Section 2762,  
22 subdivision (a), in that on or about May 1, 2005, Respondent possessed the controlled substance  
23 and/or dangerous drug, methamphetamine, as more fully set forth above in paragraphs 13 and 14.

#### 24 FOURTH CAUSE FOR DISCIPLINE

25 (Unprofessional Conduct)

26 16. Respondent is subject to disciplinary action under Section 2761,  
27 subdivision (a), in that on or about May 26, 2005, and June 27, 2005, Respondent committed acts  
28 of unprofessional conduct as more fully described above in paragraphs 13(b) and 13(c).

1 PRAYER


2 WHEREFORE, Complainant requests that a hearing be held on the matters herein  
3 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

4 1. Revoking or suspending Registered Nurse License No. 463956, issued to  
5 Michele Esther Mollen.

6 2. Ordering Michele Esther Mollen to pay the Board of Registered Nursing  
7 the reasonable costs of the investigation and enforcement of this case, pursuant to Business and  
8 Professions Code section 125.3;

9 3. Taking such other and further action as deemed necessary and proper.

10 DATED: 7/3/07

11  
12   
13 RUTH ANN TERRY, M.P.H., R.N.  
14 Executive Officer  
15 Board of Registered Nursing  
16 Department of Consumer Affairs  
17 State of California

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26 Complainant